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FISCAL IMPACT STATEMENT

LS 6510

BILL NUMBER: SB 175

NOTE PREPARED: Feb 25, 2010

BILL AMENDED: Feb 24, 2010

SUBJECT: Various Health Matters.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. C. Brown

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Smoking Ban:* This bill prohibits smoking in: (1) public places; (2) enclosed areas of a place of employment; and (3) certain state vehicles. It provides exceptions for certain gaming facilities. The bill requires the Alcohol and Tobacco Commission to enforce the prohibition. The bill makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three unrelated prior offenses. It also repeals the current Clean Indoor Air Law that prohibits smoking in public buildings.

Vital Records Provisions: The bill changes the date that the Indiana State Department of Health (ISDH) must establish the birth registration system to January 1, 2012. It authorizes a physician last in attendance of a deceased to initiate the document process for the death record. It also maintains current system for reporting of stillbirths after changes in the reporting of births and deaths are implemented. The bill further provides that certain health professionals are subject to disciplinary sanctions, instead of a Class B misdemeanor, for failure to comply with birth and death reporting requirements.

The bill establishes certain procedures, enforcement actions, and penalties concerning inspections and investigations to determine compliance with public health laws and rules.

Lead-based Paint Poisoning Prevention Program: The bill also requires the ISDH to establish a Lead-based Paint Poisoning Prevention Program concerning renovations performed for compensation in target housing and child-occupied facilities. It establishes the Lead-based Paint Poisoning Prevention Program Fund.

Distribution of HIV Information: The bill requires the ISDH to post HIV and communicable disease materials on the ISDH web site in a format that allows a clerk of a circuit court to print and distribute the materials to

marriage license applicants (current law requires ISDH to distribute the materials).

Effective Date: Upon passage; July 1, 2010.

Explanation of State Expenditures: The bill has the following provisions.

(Revised) *Smoking Ban:* The bill will increase costs for the Indiana Alcohol and Tobacco Commission (ATC) to enforce the smoking ban. The increased costs will vary depending on how ATC implements its enforcement responsibility. Under current law, the Clean Indoor Air Law is under the sections of the Indiana Code concerning the State Department of Health. Enforcement of the statute is not assigned, meaning that it is enforced by law enforcement officers. Under the bill, the ATC would have enforcement responsibility. The bill prohibits smoking in most public places, excluding certain gaming facilities.

The ATC currently has authority for enforcing the "sale of cigarette" provisions in the public places that would be part of the smoking ban in the bill. In addition, the ATC would have responsibility to enforce the smoking ban in places that the ATC does not currently monitor. As a result, the ATC will need to increase staffing to address this new responsibility. However, there are no data available to estimate the number of public places where enforcement will occur. The ATC could enforce the new smoking ban with its own enforcement agents or delegate enforcement to other local agencies. (Under IC 34-28-5, all law enforcement officers have authority to enforce infractions.) Also, the ATC could actively enforce the smoking ban or choose to only investigate complaints received. These management decisions will determine the additional staffing requirements.

Lead-based Paint Poisoning Prevention Program: The bill requires the ISDH to adopt rules to establish a Lead-based Paint Poisoning Prevention Program concerning prerenovation education for contractors and workers performing renovation activities for pay in target housing and child-occupied facilities built before 1978. The program is established to ensure that renovators are properly trained by accredited training programs and that the contractors are certified to specified standards. The promulgation of rules is a routine administrative function of the ISDH that should be accomplished within the current level of resources available to the agency. [Information regarding the cost of enforcement provisions required by the bill will be added when available from the ISDH.]

Lead-based Paint Poisoning Prevention Program Fund: The bill establishes the nonreverting Lead-based Paint Poisoning Prevention Fund to receive fees charged under the program and grant funds, and for the purpose of paying the administrative expenses of the program. The fund is to be administered by the ISDH. The bill does not provide for the expenditure of money in the fund.

(Revised) *Vital Records Provisions:* Provisions concerning the extension of the implementation date for the electronic birth and death registration system, the process for the submission of death records, or the reporting of stillbirths have no fiscal impact. The revision of the penalty for failure to comply with vital records reporting requirements for licensed health professionals from a Class B misdemeanor to being subject to sanctions by the appropriate licensing board should have little or no fiscal impact.

Distribution of HIV Information: ISDH reports that the brochures supplied to and distributed by the clerks of the superior courts to marriage license applicants cost ISDH approximately \$4,000 to print and \$6,000 to distribute to the clerks. Funding is currently provided from a federal HIV prevention grant. According to the ISDH, the revision of this provision would allow the ISDH to redirect the federal grant funding being used to pay for the brochures for other purposes which target the populations at risk of HIV and other sexually

transmitted infections.

(Revised) Background on the ATC- The appropriation for the ATC in FY 2010 is \$11.0 M. The ATC is funded with dedicated funds from tobacco and alcohol excise taxes. As of October 5, 2009, there were 97 employees with total salaries of \$4.7 M assigned to the Excise Police Enforcement Section (EPES) of the ATC. The average annual salary of employees of the EPES is \$49,135, and average salaries range from \$22,386 to \$78,000.

Explanation of State Revenues: (Revised) *Smoking Ban Infractions*: Revenues for the state General Fund could increase through infraction judgements for two Class B infractions (or Class A infractions under certain circumstances) established under the bill. There are no data available to indicate how many offenders may be found guilty of prohibited smoking, a Class B infraction, or how many owners, managers, or operators of public places or places of employment may fail to comply with the provisions of the smoking ban, a Class B infraction. Both of these offenses may be enhanced to a Class A infraction if the offender has three prior, unrelated convictions. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class B infraction is \$1,000, and the maximum judgment for a Class A infraction is \$10,000. Judgments are deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Distribution of HIV Information*: The bill would change the method of distribution of the information required to be supplied to applicants for marriage licenses by the clerks of the superior courts. The clerks would access the ISDH website to download the HIV information and print it for marriage license applicants. Each year approximately 45,000 couples marry in Indiana, the cost to the clerks would be dependent upon the number of licenses issued in a county and the number of pages that might be required to be printed.

Explanation of Local Revenues: (Revised) *Smoking Ban Infractions*: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: ATC; ISDH.

Local Agencies Affected: Clerks of superior courts; Trial courts; Local law enforcement agencies.

Information Sources: *Indiana Handbook of Taxes, Revenues, and Appropriations - 2009, Program Inventory for the Indiana State Department of Health*, Legislative Services Agency.

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